

NO. 78-6486

IN THE SUPREME COURT
OF
THE UNITED STATES OF AMERICA

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APR 12 1979

OFFICE OF THE CLERK
SUPREME COURT, U.S.

LEON DOUGLAS ALEXANDER,

Petitioner,

-VS-

W. J. ESTELLE, JR., DIRECTOR,
Texas Department Of Corrections,

Respondent.

APPEAL FROM THE HIGHEST CRIMINAL
COURT OF THE STATE OF TEXAS

In Propria Personam

Leon Douglas Alexander
#242667 Ellis Unit
Huntsville, Texas 77340

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IN THE SUPREME COURT OF THE
UNITED STATES OF AMERICA

LEON DOWELL ALMAYER,
Appellant,
-vs-
W. J. ESTELLE, Jr., DIRECTOR,
Texas Department of Corrections,
Appellee.

S. Ct. N

78-6486.

ON APPEAL FROM THE HIGHEST CRIMINAL
COURT OF THE STATE OF TEXAS

TO THE HONORABLE JUDGES OF THE SUPREME COURT OF THE UNITED STATES OF
AMERICA:

JURISDICTIONAL STATEMENT

A typed copy of the Trial Court's Findings of Fact and Conclusions of Law; attached hereto and marked exhibit "A". The order of denial from the Court of Criminal Appeals of Texas is not attached for it is a mere post-card denying relief without written order. A copy of Appellant's Petition for a Writ of Habeas Corpus to the Trial Court is attached hereto and marked exhibit "B", this is the only copy that Appellant has, the Respondent/Appellee has two copies already.

The "Equal Protection Clause" of the Fourteenth Amendment of the Constitution for the United States of America and this Court's ruling in Griffin v Illinois, 351 U.S. 12, 76 S.Ct. 585, 102 L.E.891 (1966), this Court said: "(T)he central aim of our entire Justice system (is that) all people charged with crime must, so far as the law is concerned, 'stand on an equality before the bar of Justice in every American Court'", Griffin, Supra, for this is a "Country dedicated to affording equal Justice to ALL and special privileges to none in the administration of its Criminal Law." id. at 19, 76 S.Ct., at 591.

Appellant seeks review of an adverse ruling of the Texas Court of Criminal Appeals; The Highest Court in the State of Texas on Criminal matters, issued on the 21st. day of February, 1979. Appellant Jurisdiction is authorized by Title 28, Section 1252 of U.S.C.A. Proper notice of Appeal filed with the clerk of the Court of Criminal Appeals of Texas on or about the 28th day of February, 1979. A question of

Constitutional Law, as illustrated herein, has not been presented to this Court. Notice of Appeal marked exhibit "C", and attached hereto.

The Fifth and Fourteenth Amendments of the Constitution for the United States of America, and Title 28 U.S.C.A., sec. 1252 allow for such Appeals. The Federal question presented herein is substantial, Zucht v King, 260 U.S. 174, 176-177, placing the burden of decision upon this Court to adhere to a question of Constitutional magnitude non-adhered too by the State Courts of Texas.

The following cases adhere to this Court's power to hear this Appeal. Chisholm v Georgia, (1793); Marbury v Madison, (1803); Martin v Hunter's Lessee, (1816); and Nashville, Chattanooga and St. Louis Railway v Wallace, (1955), stated: "The Court accepted Jurisdiction to hear an Appeal from a State Court's declaratory judgement to hear, which was then a recent innovation. The Court said that the Constitution did not "crystallize into changeless form" the procedure of 1789, and 'so long as the case retains the essentials of an adversary proceeding, involving a real, not a hypothetical controversy, which is finally determined by the Judgement below,' it is a 'controversy' as the word is used in conferring Jurisdiction in Article III.

Jurisdiction is also founded in the original Constitution, Article VI, Section 2, which states: "(2), "This Constitution, and the laws of the United States which shall be made in pursuance thereto; and all treaties made, or which shall be made, under the authority of the United States, shall be the Supreme law of the Land; and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding. (emphasis added).

The Constitutional validity of Article 42.09, Sections (4) and (7) of Vernon's Annotated Texas Code of Criminal Procedure are at issue; and cited verbatim as follows: ARTICLE 42.09;

Sec. 4: If a defendant is convicted of a felony and sentenced to death, life, or an term of more than fifteen (now ten) years in the Department of Corrections and he gives notice of Appeal, he shall be transferred to the Department of Corrections on a commitment pending a mandate from the Court of Criminal Appeals.

Sec. 7: All defendants who have been transferred to the Department of Corrections pending the appeal of their convictions under this Article, shall be under the control and authority of the Department of Corrections for all purposes as if no appeal were pending.

CONSTITUTIONAL QUESTIONS PRESENTED:

- 1). Whether the Texas Legislature's enactment of Article 42.09, Sections (4) and (7) of Vernon's Annotated Code of Criminal Procedure of

Texas; and the enforcement of such a provision by State Officials violate the "Equal Protection Clause" of the Fourteenth Amendment of the Constitution for the United States of America?

- 2). Whether Appellant is denied "Due Process of Law" by the State Factfinders upon submission of a valid claim concerning the validity of the State's accusatory pleading, wherein no written findings were ever enter by the State's highest Court?

STATEMENT OF THE CASE

Appellant's denial of "Equal Protection of the Law" is a substantial question and should be review by this Court, for if filed in a District Court; any adverse ruling against the State would or could be appealed to the United States Court of Appeals for the Fifth Circuit, this in effect would cause great delay in Appellant's release from such Unconstitutional confinement and would only further cause continuing harm as well as continued denial of his Constitutional Rights.

Appellant was transferred to the Texas Department of Corrections, over his objections, with his case on direct Appeal. Appellant filed a Petition for Writ of Habeas Corpus in the Trial Court contending that his accusatory pleading was fatally defective and that he had been denied "Equal Protection of the Law" by his transfer to the Texas Department of Corrections (T.D.C.), with his case on appeal while others of his same class were allowed a choice of staying in the County Jail or submitting to said transfer; Appellant did not have a choice, he was forced to go to the T.D.C.

The Trial Court handed down Findings of Fact and Conclusions of Law (exhibit "A") on February 5th, 1979; to which was appealed to the Highest Court in Texas for Criminal matters; Texas Court of Criminal Appeals; this Court denied relief without written opinion February 21st, 1979. Notice of Appeal to this Court was filed with the Clerk of the Court of Criminal Appeals February 28th, 1979.

This particular contention has not been ruled on by this Court, although the "Equal Protection Clause" of the Fourteenth Amendment has been expounded and ruled on in a great number of cases. Even Legislative enactment of 28 U.S.C., sections 2001 and 2002 concerning Equal employment; Title 42 U.S.C., sec. 1981 (42 U.S.C.A., 1961), also securing equality under the law. Even as far back as (1810) in Fletcher v Peck, declaring an act of the Georgia Legislature Unconstitutional concerning the sanctity of contracts, thereby asserting the right of the Court to

pass on the Constitutionality of State Legislation."

Appellant has been denied "Equal Protection of the Law" by State Officials enforcing an Unconstitutional Procedure in the State of Texas by the enforcement of Article 42.09, Sections (4) and (7) of Vernon's Annotated Texas Code of Criminal Procedure. Other convicted of crime with ten years or less are allowed to choose where they wish to await the outcome of their Appeals, Appellant did not have this choice and was thereby denied "Equal protection of the law" as guaranteed to him in Griffin, Supra, and many other cases as well as the very bases of our law, the Constitution of the United States of America.

Concerning Whether Appellant was denied Due Process of Law by the State fact finders upon submission of a valid claim concerning the validity of the State's accusatory pleading, wherein no written findings were ever entered by the State's highest Court?

Appellant filed application for a Writ of Habeas Corpus with the Trial Court asserting the fact that the State's accusatory pleading was fundamentally defective and thereby void and disallowed the Trial Court proper Jurisdiction to enter Judgement, since the pleading failed to allege an offence against the laws of the State.

Appellant stood charged by indictment with "Aggravated Robbery". Vernon's Annotated Texas Penal Code, Sections 29.02 and 29.03 are cited as follows:

Section 29.02: Robbery:

(a) A person commits an offense if, in the course of committing theft as defined in Chapter 31 of this Code and with intent to obtain or maintain control of the property, he;

(1) intentionally, knowingly, or recklessly causes bodily injury to another; or

(2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

(b) An offense under this Section is a felony of the second degree.

Section 29.03: Aggravated Robbery:

(a) A person commits an offense if he commits robbery as defined in Section 29.02 of this Code, and he;

(1) causes serious bodily injury to another; or

(2) uses or exhibits a deadly weapon.

(b) An offense under this section is a felony of the First degree.

Appellant's indictment reads (in pertinent part) as follows:

... did then and there unlawfully, while in the course of committing theft of one watch, then and there of the value of ten dollars, one ring, then and there of the value of ten dollars, and two hundred sixty dollars in current money of the United States of America, all which, in the aggregate, is hereinafter called the property, and with intent on Defendant's part, which he then and there had, and by suing and exhibiting a deadly weapon, namely a pistol, Defendant did knowingly and intentionally threaten Joe Canacho with and place him in fear of imminent bodily injury and death,

Appellant's indictment fails to recite the following prerequisites mandated by the Statutory provisions of Texas:

- 1). Appellant's indictment fails to allege "ownership in the complainant"
- 2). Appellant's indictment fails to allege "without the consent of the owner".
- 3). Appellant's indictment fails to allege "with intent to deprive the owner of the value and appropriate the property to the benefit of the taker".

The Texas Court of Criminal Appeals wrote in Misick v State, 51 SW2d. 715-716 (1932): "It is elementary as well as Statutory, that the essential element of theft is that the property be taken not only fraudulently but without the consent of the owner, with the intent to deprive the owner of the value and appropriate the property to the benefit of the taker...." Many other cases could be cited....

Black's Law Dictionary defines Robbery as : "Felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear."

Black's Law Dictionary defines Theft: "A popular name for larceny. The fraudulent taking of corporeal personal property belonging to another, from his possession, or from the possession of some person holding the same for him, without his consent, with intent to deprive the owner of the value of the same, and to appropriate it to the use or benefit of the person taking."

Not only are "Robbery" and "Theft" like offenses; but the Statutory provisions of Section 29.02 plainly state "as defined in Chapter 31 of this Code"; Chapter 31 being the "Theft" Statute and containing the elements as cited in Black's Law Dictionary and cited as being omitted from Appellant's accusatory pleading, upon which was predicated his Judgement of conviction, and is null and void for lack of citing the Statutory provisions as prescribed by State law.

The validity of the indictment must be determined by practical, not technical, considerations, United States v London, 550 F.2d. 203 (5th. Cir. 1977); United States v Lamham, 557 F.2d. 187 (5th.Cir. 1976); cert. denied, 432 U.S. 1041, 97 S.Ct. 739, 58 L.Ed.2d. 752 (1977). first, the indictment must contain the elements of the offense charged and fairly inform the Defendant of the charge against which he must defend, Amkin et al v United States, 418 U.S. 37, 94 S.Ct. 2307, 41 L.W.2d. 550 (1974); United States v Guthartz, 573 F.2d. 225 (1978).

It is quite obvious that the Trial Court did not have Jurisdiction to enter Judgement since the State's accusatory pleading failed to state

an offense prosecutable under the Laws of Texas. Appellant is illegally confined and any further delay in ruling on the Denial of his Fourteenth Amendment Rights would only further the punishment that is truly Unconstitutional.

CONCLUSION

Appellant has been denied "Equal Protection of the Law" by the enforcement of an Unconstitutional procedural provision of State Law. Appellant being transferred to the penitentiary while others of his same class are allowed to choose their place of confinement while awaiting the outcome of their appeals.

Appellant has been denied "Due Process of Law" by the State's failure to comply with Statutory provisions of State Law in their seeking of an accusatory pleading, which failed to state an offense upon which a judgement could truly rest.

WHEREFORE, Appellant prays that this Court grant and issue an order allowing this Appeal; order an Attorney Appointed; and set the same down for Oral arguments and hearings in order that Justice may be done, and to the end that an order may be issued releasing him from any further illegal and Unconstitutional confinement. For all these things Appellant ever prays.

APPENDIX

Respectfully Submitted

Leon Douglas Alexander
Leon Douglas Alexander
#242667 Ellis Unit
Huntsville, Texas 77340

SWORN and subscribed to before me this 10th day
of March, 1979 A.D.

Delwin G. Brzesche
NOTARY PUBLIC IN AND FOR
WALKER COUNTY TEXAS
MY COMMISSION EXPIRES 6-30-20

DELWIN G. BRZESCHE
NOTARY PUBLIC, WALKER CO. TEXAS
MY COMMISSION EXPIRES 6-30-20

IN PAGE)	IN THE CRIMINAL
)	DISTRICT COURT NO. 1
DEON MURKAS ALEXANDER)	DALLAS, COUNTY, TEXAS

FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON APPLICATION FOR WRIT OF HABEAS CORPUS

On the 5 day of Feb, A.D., 1979, came on for consideration the Application for Writ of Habeas Corpus of the above-named petitioner. The Court finds that petitioner has previously filed several Applications for Writ of Habeas Corpus with this Court all of which have been denied by the Court of Criminal Appeals. The Court finds that all of the allegations contained in petitioner's instant Application are either repetitious of those previously considered or could have been and should have been raised previously.

From the circumstances presented in this case the Court is of the opinion that the Petitioner is abusing the habeas corpus process.

The Court is of the opinion that the Petitioner's Application for writ of habeas corpus is totally without merit and recommends that the same be denied.

ORDER OF THE COURT

In implementing the Court's Findings of Fact and Conclusions of Law, the Clerk will:

- 1). Prepare a transcript of all papers in this cause and transmit the Court's Findings and Order, including the Judgement, sentence, indictment, docket sheet, and other exhibits and evidentiary matter filed in the trial records of this cause, and transmit the same to the Court of Criminal Appeals as provided by the provisions of Article 11.07, V.A.C. & L.

- 2). Send a copy of these Findings of Fact and Conclusions of Law, and the Order thereon, to the Petitioner and his Counsel by depositing same in the U.S. Mail.

SIGNED AND SEALED THIS the 5 day of Feb, 1979.

(Signed by the Trial Judge)
 J U D G E

Dear Sir:

This is to advise that the Court has denied without written order the application for writ of habeas corpus.

..... Leon Douglas Alexander.....
 in Application No..... 5485

Sincerely yours,

Thomas Lowe, Clerk

This is not marked as an exhibit, it is the only copy that I have with no way for gettin other copies.....

LEON DOUGLAS ALEXANDER,
Petitioner,
-vs-
W.J. ESTELLE, Jr., Director,
Texas Dept. Of Corrections,
Respondent.

IN CRIMINAL DISTRICT COURT
NO. I IN AND FOR DALLAS COUNTY
DALLAS, TEXAS.
WRIT NO. _____

PETITION FOR A WRIT OF HABEAS CORPUS

TO THE HONORABLE JUDGE OF THE SAID COURT:

COME NOW, Leon Douglas Alexander, Petitioner herein and presents to this Court his petition for a writ of habeas corpus. This petition is presented pursuant to and in accordance with Vernon's Ann. C.C.P., Articles 11.07 and 11.59 and under the case authority of Ex Parte Young, 418 SW2d. 824; Imhoff v State, 453 F.2d. 894; Cf., Picard v Connor, 404 U.S. 270.

Petitioner states upon his oath that he is being illegally and Unconstitutionally confined of his life and liberty at the Ellis Unit of the Texas Department of Corrections in Walker County, Huntsville, Texas, by the Respondent herein, due to an order entered by this Court on or about the ninth(9) day of September, 1974.

I

Petitioner entered a plea of not guilty to the charge of "Robbery with Firearm", Grand Jury True Bill of Indictment No. C-74-6763-IH. The Jury found Petitioner guilty of "Aggravated Robbery" as shown in the Court's Judgement and sentence; (neither of which are attached, due to petitioner's indigency). After being found guilty and sentenced by the Court; Petitioner gave timely Notice of Appeal. Petitioner was then transferred to the Department of Corrections; with his case on Direct Appeal.

II

GROUND FOR ISSUANCE OF THE WRIT

1). Petitioner's indictment is fatally defective in that it fails to allege "ownership in the complainant."

- 2). Petitioner's indictment is fatally defective in that it fails to allege "without the consent of the owner."
- 3). Petitioner's indictment is fatally defective in that it fails to allege "with the intent to deprive the owner of the value and appropriate the property to the benefit of the defendant, Leon Douglas Alexander."
- 4). Petitioner was adjudged guilty and sentenced on a charge of "aggravated Robbery" wherein the State's accusatory pleading alleged "Robbery with Firearm".
- 5). Petitioner was denied Due Process of State law in being transferred to the Texas Department of Corrections with his case on direct Appeal; even further he was denied "Equal Protection" of the law; by said transfer, as guaranteed by the Fourteenth Amendment of the United States Constitution of America.

III

FACTS: ARGUMENT AND AUTHORITIES:

FIRST; SECOND; THIRD, and FOURTH Grounds of ERROR re-stated with argument and authorities in support thereof: In Brief: Petitioner's Indictment is "multiplee"; "fatally defective" for it fails to allege "ownership in the complainant"; it further fails to allege "without the consent of the owner"; and even further fails to allege "with the intent to deprive the owner of the value and appropriate the property to the benefit of the taker", (or defendant, Leon Douglas Alexander); even further the body of the indictment charges (or fails to charge), "aggravated robbery" wherein the indictment under charged offense states, "robbery with firearm".

Petitioner's indictment reads in pertinent part as follows:
". . . . did then and there unlawfully, while in the course of committing theft of one watch, then and there of the value of ten dollars, one ring, then and there of the value of ten dollars, and two hundred sixty dollars in current money of the United States of America, all which, in the aggregate, is hereinafter called the property, and with intent on defendant's part, which he then and there had, and by using and exhibiting a deadly weapon, namely a pistol, defendant did knowingly and intentionally threaten Joe Camacho with and place him in fear in imminent bodily injury and death,

The Texas Court of Criminal Appeals wrote in Musick v State, 121 Tex.Cr.R. 616, 51 SW2d. 715-716 (1932): "It is elementary as well as statutory, that the essential element of theft is that the property be taken not only fraudulently but without the consent of the owner, with the intent to deprive the owner of the value and appropriate the

the property to the benefit of the taker - - - - (I)t is said that the definition of larceny which omits 'without the consent of the owner' is now universally conceded to be defective." (emphasis supplied).....

The statutory provision for "Robbery" and "Aggravated Robbery" as defined in Vernon's Ann. Texas Penal Code, Sections 29.02 and 29.03 state:

Sec. 29.02: Robbery:

(a) A person commits an offense if, in the course of committing theft as defined in Chapter 31 of this Code and with intent to obtain or maintain control of the property, he:

(1) intentionally, knowingly, or recklessly causes bodily injury to another; or
(2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

(b) An offense under this Section is a felony of the second degree.

Sec. 29.03: Aggravated Robbery:

(a) A person commits an offense if he commits robbery as defined in Section 29.02 of this code, and he:

(1) causes serious bodily injury to another; or
(2) uses or exhibits a deadly weapon.

(b) An offense under this section is a felony of the First degree.

The Court of Criminal Appeals has held that robbery and theft are like offenses; robbery being no more than aggravated theft. Horne v State, 508 SW2d. 643. Petitioner's indictment is fatally defective for it fails to allege an offense against the laws of Texas. Long v State, 548 SW2d. 897. It has been held that a fundamentally defective indictment may be challenged by way of post conviction application for writ of habeas corpus. Ex Parte Jones, 542 SW2d. 179; Ex Parte Banks, 542 SW2d. 183.

In failure to allege ownership of the property; see, Lucero v State, 502 SW2d. 128; Bouie v State, 528 SW2d. 587; Arline v State, 529 SW2d. 73; Ainsworth v State, 531 SW2d. 613; French v State, 531 SW2d. 613; Batro v State, 531 SW2d. 614; Pittman v State, 532 SW2d. 97; Page v State, 532 SW2d. 341; Franks v State, 532 SW2d. 631; Jones v State, 535 SW2d. 184 (1976); Sellers v State, 536 SW2d. 564 (1976); Adams v State, 540 SW2d. 733 (1976).

As stated in the statutory provision, in charging "robbery" under V.A.T.P.C., sec. 29.02: "A person commits an offense, if, in the course of committing theft as defined in Chapter 31 (being the theft statute) of this code" and - - - -. Therefore the definition in Chapter 31 is a mandatory prerequisite to the offense of "Robbery" or "Aggravated Robbery"; therefore in this case, the State's pleading totally fails to allege an offense prosecutable in this Court.

The indictment having failed to charge an offense as prescribed by statute and having on its face the proferred offense of "aggravated robbery"; wherein the charged offense is "robbery with firearm" to which there is no statutory provision for said charge under the present (New) Penal Code, effective January 1st, 1974.

Petitioner was denied Due Process of State law in being transferred to the Texas Department of Corrections with his case pending direct appeal; even further he was denied "Equal Protection" of the law, by said transfer, as guaranteed by the Fourteenth Amendment of The United States Constitution of America.

As stated; Petitioner was transferred to the Texas Department of Corrections with his case pending direct appeal. The Court of Criminal Appeals has ruled as far back as 1911 in Ex Parte Brandenberg, 140 S.W. 780, "That the judgement of the Court of Criminal Appeals attaches immediately upon the entry of 'Notice of Appeal', and stays any punishment assessed the Appellant. Prisoners who perfect an Appeal to this Court have a right to have their Appeals passed on by this Court before suffering any of the punishment assessed against them ..."

This same ruling has been re-stated in many cases, see Carter v State, 510 SW2d. 323 (Tex.Cr.App. 1974); and Baker v State, 520 SW2d. 782 (Tex.Cr.App. April 2, 1975); Baker, supra, re-stating the holding in Ex Parte Brandenberg, supra, after the enactment of the provisions of Article 42.09 (4) and (7), to which makes this transfer possible, see Vernon's Ann.C.C.P., art. 42.09 (4)(7). The enactment of art. 42.09 (4)(7) are totally Unconstitutional, for they deprive this Petitioner of Equal Protection of the Law.

The "Equal Protection" clause of the Fourteenth Amendment embodies "Equal Privileges" and "Equal Immunities"; therefore, whether considered as a "privilege" or "immunity"; Petitioner has been denied a vested Constitutional Right.

The harm to Petitioner has been done; there is no retraction for such a denial. Petitioner has stated a *prima facie* case upon which relief must be granted, his Constitutionally protected rights have been abridged. There is no adequate remedy less than to grant the relief requested herein.

CONCLUSION

Petitioner has faced the burden of proof and shown by more than a preponderance of the evidence that his rights guaranteed by statute and Constitutional law have been denied. Petitioner merits no less than to have his case remanded to the Trial Court and an order of Dismissal issued under the present indictment. The indictment in Petitioner's case is fatally defective; failing to allege an offense against the laws of Texas. Petitioner was denied due process and equal protection of the law in his transfer to the department of corrections, and therefore his case must be reversed and remanded.

WHEREFORE, Petitioner prays that this Court grant and issue a Writ of Habeas Corpus forthwith and that he be brought forthwith without delay before this Court for proper consideration of the issues involved and that upon final hearing to the end that Petitioner may be discharged from such illegal confinement and restraint.... For all these things Petitioner ever prays....

Leon Douglas Alexander
Petitioner Pro Se

STATE OF TEXAS)
)
COUNTY OF WALKER)

AFFIDAVIT

Before me, the undersigned authority, appeared Leon Douglas Alexander on this 10 day of March, 1979, A.D., and who being by me duly SWORN did depose upon his oath the following:

I, Leon Douglas Alexander, state that I am a pauperis person unable to pay the cost of the above and herein attached action, styled, Petition for a Writ of Habeas Corpus, numbering five(5) pages;

I, Leon Douglas Alexander, have read the foregoing and herein attached Petition for a Writ Of HabeasCorpus, and I swear upon my oath that it is true and correct.

Leon Douglas Alexander
Leon Douglas Alexander
#242667 Ellis Unit
Huntsville, Texas 77340

SWORN and subscribed to before me this 10th day
of March, 1979 A.D.

Delwin C. Broesche
NOTARY PUBLIC IN AND FOR
WALKER COUNTY T E X A S

DELWIN C. BROESCHE
NOTARY PUBLIC, WALKER CO. TEXAS
MY COMMISSION EXPIRES 6-30-81

IN PARTES	IN THIS COURT OF CRIMINAL APPEALS
LEON DOUGLAS ALEXANDER	IN AND FOR THE STATE OF TEXAS
	AT AUSTIN, T E X A S.

NOTICE OF APPEAL

Formal Notice of Appeal is herein given from this Court to the Supreme Court of the United States Of America; under the prescribed authority of the Federal Rules Governing such Appeals.

Respectfully Submitted

Leon Douglas Alexander
Leon Douglas Alexander
#242667 Ellis Unit
Huntsville, Texas 77340

Done at Huntsville, Walker County this 28th day of
Feb., 1979 A.D.

SWORN and subscribed to before me this 28th day
of Feb., 1979 A.D.

L.A. Steele
Notary Public.....

L.A. STEELE
NOTARY PUBLIC
WALKER CO. TEXAS
Feb. 28, 1979

Exhibit "C"
=